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# PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
03-1862 / L13.12-0251

**FILED ELECTRONICALLY**
**OCTOBER 8, 2008**

| Application Number | Filed |
|---|---|
| 10/719,673 | November 21, 2003 |
| **First Named Inventor** | |
| Khosro Khakzadi | |
| **Art Unit** | **Examiner** |
| 2179 | WIENER, Eric A. |

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☐ attorney or agent of record.
Registration number _____.

☑ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 59,066

/ R. Michael Reed /
Signature

Ronald Michael Reed
Typed or printed name

512-334-3222
Telephone number

October 8, 2008
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☑ *Total of 1 forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|---|---|---|
| First Named Inventor : | Khosro Khakzadi | |
| Appln. No.: | 10/719,673 | |
| Filed : | November 21, 2003 | Group Art Unit: 2179 |
| For : | CHIP DESIGN COMMAND PROCESSOR | Examiner: WIENER, Eric A. |
| Docket No.: | 03-1862 / L13.12-0251 | |

**Mail Stop AF**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**FILED ELECTRONICALLY**
OCTOBER 8, 2008

**REMARKS IN SUPPORT OF**
**THE PRE-APPEAL REQUEST FOR REVIEW**

Dear Sir:

In response to the Final Office Action mailed on July 9, 2008 (hereinafter the "Final Office Action"), and pursuant to the Notice of Appeal and Pre-Appeal Brief Request for Review submitted herewith, Applicant respectfully traverses the rejection of claims 1, 5-16, and 19-26 under 35 U.S.C. §103(a) over U.S. Patent No. 5,974,253 ("Nahaboo") and U.S. Patent No. 5,493,508 ("Dangelo"). The asserted combination of Nahaboo and Dangelo fails to disclose or suggest all of the elements of the claims. Accordingly, Applicant herby requests review and withdrawal of the rejection and an indication of allowability with respect to the pending claims.

**1. Impermissible Hindsight Reconstruction**

The asserted combination of Nahaboo and Dangelo constitutes an impermissible hindsight reconstruction using the present application as a template to piece together elements from Nahaboo and Dangelo. The fact finder must be aware of distortion caused by hindsight bias and must be cautious of arguments reliant upon ex post reasoning. *See KSR Int'l Co. v. Teleflex Inc., citing Graham v. John Deere*, 383 U.S., at 36. **"Determination of obviousness cannot be based on the hindsight combination of components selectively culled from the prior art to fit the parameters of the patented invention."** ATD Corp. v. Lydall, Inc., 159 F.3d 534, 48 USPQ2d 1321 (Fed. Cir. 1998) (emphasis added); *see also KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. ___ (2007), *citing Monroe Auto Equipment Co. v. Heckethorn Mfg & Supply Co.*, 332 F.2d 406, 412 (CA6 1964)) (warning against a "temptation to read into the prior art the teachings of the invention

in issue").

Such impermissible hindsight reconstruction is present here, because the Office ignores the explicit teachings of Nahaboo and Dangelo. Nahaboo discloses an interface design tool that uses a list processing language (LISP) type of interpreted language that can be interpreted by an interpreter (WOOL) language program. *See Nahaboo*, col. 1, lines 35-39. Further, Nahaboo discloses that the interface development tool produces an interface file that can be used by an application and stored on a disk, and that the file contains the user-interface format in the form of a WOOL language program. *See Nahaboo*, col. 2, lines 10-14. Further, Nahaboo discloses that the application itself does not include the interface (*See Nahaboo*, col. 4, lines 6-8), but rather that the interpreter WOOL language program embedded with the application executes the interface and communicates with the application by sending messages to activate application procedures. *See, e.g., Nahaboo*, col. 4, lines 9-14; col. 6, lines 21-23 and 50-59; and Abstract. Thus, in Nahaboo, the interface design tool and the interface itself are separate from the application that uses the interface.

In contrast, Dangelo discloses a system and method for specification and design of digital systems from high level descriptions, which method includes a series of transformations at various levels of the design representations. *See Dangelo*, Abstract. Dangelo discloses a system that generates screen displays (user interfaces) that are generated by a computer system employing Dangelo's methodology. *See, e.g., Dangelo*, col. 7, lines 59-61, col. 8, lines 48-60. Dangelo discloses a schematic editor that enables the user to select from a number of circuit elements, which circuit elements can be interconnected to form a schematic diagram. *See Dangelo*, col. 8, lines 48-60. However, Dangelo makes no mention or suggestion related to modification of the user interface. Further, in Dangelo, the interface is part of the application that generates the circuit diagrams, unlike the interface in Nahaboo.

In general, the Office blurs the distinction between the interface development tool of Nahaboo and the associated application with the embedded WOOL interpreter program that actually implements the developed (designed) user interface file. By ignoring that distinction, the Office then makes the extension that the interface development tool could be incorporated into the circuit design tool of Dangelo. However, the references provide no motivation for such a combination. And, there is no evidence that this modification would be obvious to try.

Further, the Office is reminded that rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *See KSR Int'l Co. v. Teleflex Inc., citing In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006). The Office suggests that because Nahaboo discloses "an extremely flexible development tool that can be used regardless of the application (column 1, lines 29-34)", then "Dangelo would thus look to Nahaboo regarding features of modifying a graphical user interface to produce a design." *See the Final Office Action*, p. 5, paragraph 5. Further, the Office asserts that Dangelo discloses that the interface of Dangelo may be specified for different users. *See the Final Office Action*, p. 5, paragraph 5. However, this assertion is unsupported by the references.

Further, to support the assertion, the Office misconstrues the teaching of Dangelo, which discloses a design compiler that follows the design process and which discloses a GUI interface that facilitates user interactions by abstracting out those steps in the design flow that do not require the designer's intervention. *See Dangelo*, col. 16, lines 16-42. Dangelo does not disclose or suggest a user specified GUI, and combining Nahaboo and Dangelo would require removing the user interface from the application of Dangelo. Neither Nahaboo nor Dangelo provide any suggestion or motivation to makes such a modification. Hence, the rejection is improper and should be withdrawn.

**2. Claims 1 and 5-7 Are Allowable over Nahaboo and Dangelo**

The asserted combination of Nahaboo and Dangelo fails to disclose or suggest "a command interpreter" that "modifies the graphical user interface at run time of the graphical user interface", as recited in claim 1. In direct contrast, Nahaboo discloses that the design tool that modifies the graphical user interface is separate from the WOOL interpreter that provides the user interface for use with an application. Accordingly, Nahaboo does not disclose or suggest "a command interpreter" that "modifies the graphical user interface at run time of the graphical user interface", as recited in claim 1. Dangelo fails to overcome the deficiencies of Nahaboo, since Dangelo makes no mention or suggestion related to modification of the user interface. Accordingly, the asserted combination of Nahaboo and Dangelo fails to disclose or suggest at least one element of claim 1, and of claims 5-7 at least by virtue of their dependency from allowable claim 1.

**3. Claims 8-16 Are Allowable over Nahaboo and Dangelo**

Further, the asserted combination of Nahaboo and Dangelo fails to disclose or suggest "a command processor including a graphical user interface (GUI) without graphical objects," as recited in claim 8. In direct contrast, Nahaboo discloses that the design tool that includes user selectable graphical objects (such as buttons and menus). *See, e.g., Nahaboo,* col. 8, line 45 to col. 9, line 45. Nahaboo fails to disclose or suggest "command processor including a graphical user interface (GUI) without graphical objects," as recited in claim 8. Dangelo fails to overcome the deficiencies of Nahaboo, since Dangelo does not disclose or suggest "command processor including a graphical user interface (GUI) without graphical objects," as recited in claim 8. Instead, Dangelo shows user interfaces with graphical objects for use in generating the schematic diagram. *See Dangelo*, FIGS. 13-15. Hence, the asserted combination of Nahaboo and Dangelo fails to disclose or suggest all of the elements of claim 8, or of claims 9-16, at least by virtue of their dependency from allowable claim 8.

**4. Claims 19-23 Are Allowable over Nahaboo and Dangelo**

Further, the asserted combination of Nahaboo and Dangelo fails to disclose or suggest "assembling a graphical user interface having no hard coded objects and including at least one graphical user interface (GUI) component based on interpreted configuration commands from the user, the at least one graphical user interface (GUI) component selectable by a user to access an associated function to generate an integrated circuit design," as recited in claim 19. In direct contrast, Nahaboo discloses that the design tool that includes user selectable graphical objects (such as buttons and menus). *See, e.g., Nahaboo,* col. 8, line 45 to col. 9, line 45. Nahaboo fails to disclose or suggest "assembling a graphical user interface having no hard coded objects and including at least one graphical user interface (GUI) component based on interpreted configuration commands from the user, the at least one graphical user interface (GUI) component selectable by a user to access an associated function to generate an integrated circuit design," as recited in claim 19. Dangelo fails to overcome the deficiencies of Nahaboo, since Dangelo does not disclose or suggest "assembling a graphical user interface having no hard coded objects and including at least one graphical user interface (GUI) component based on interpreted configuration commands from the user," as recited in claim 19. Hence, the asserted combination of Nahaboo and Dangelo fails to

disclose or suggest at least one element of claim 19, and of claims 20-23, at least by virtue of their dependency from allowable claim 19.

**5. Claims 24-26 Are Allowable over Nahaboo and Dangelo**

The asserted combination of Nahaboo and Dangelo fails to disclose or suggest "the graphical user interface specified entirely by a user via a user input including one or more configuration commands provided to the command processor at run time of the command processor and interpreted by the command interpreter," as recited in claim 24. In direct contrast, Nahaboo discloses that the design tool that includes user selectable graphical objects (such as buttons and menus). *See, e.g., Nahaboo,* col. 8, line 45 to col. 9, line 45. Nahaboo fails to disclose or suggest all of the elements of claim 24. Dangelo fails to overcome the deficiencies of Nahaboo, since Dangelo does not disclose or suggest "the graphical user interface specified entirely by a user via a user input including one or more configuration commands provided to the command processor at run time of the command processor and interpreted by the command interpreter," as recited in claim 24. Accordingly, claims 24-26 are allowable over the combination of Nahaboo and Dangelo.

CONCLUSION

Applicant has pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the references applied in the Final Office Action. Accordingly, Applicant respectfully requests reconsideration and withdrawal of each of the rejections as well as an indication of allowability of each of the pending claims.

Respectfully submitted,

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